Canada Industrial Relations Board

Departmental Performance Report

for the period ending March 31, 2007

Approved by:

The Honourable Jean-Pierre Blackburn
Minister of Labour and Minister of the Economic Development Agency of Canada for the Regions of Quebec

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SECTION I–OVERVIEW

1.1 Message from the Chairperson

I am pleased to present to Parliament and Canadians the ninth annual Performance Report of the Canada Industrial Relations Board (CIRB or the Board) for the period ending March 31, 2007. This will be the last CIRB performance report under my chairmanship.

Since my arrival at the Board on January 1, 2004, my operational priorities have been to improve the processing time of applications/complaints, reduce the number of backlog applications that had lingered over the previous years, ensure that Board decisions are sound from an industrial relations as well as legal standpoint, improve relations with stakeholders and ensure compliance of the Board with the ethical expectations of Parliament and Canadians. In terms of the work environment, I also endeavoured and communicated my desire to make the CIRB a workplace where employees could have fun while attaining their performance expectations. I believe that I have met my objectives and that I will leave the CIRB in a better position to manage its workload more efficiently and more effectively in the years to come.

Fiscal year 2006–07 has been somewhat unusual for the CIRB. The number of applications/complaints received by the Board fell significantly from the levels experienced in recent years, which is a good thing since it would normally allow the Board to catch up on backlog cases. On the other hand, because of a reduced adjudicative capacity in 2006–07, the Board's disposition performance also declined from the levels experienced in recent years. Nevertheless, the number of backlog cases dropped to 625 on March 31, 2007, the lowest level since 1997–98. Furthermore, the average processing time of matters disposed of has shown an improvement.

The CIRB has also refined the implementation of a number of initiatives in 2006–07 in order to improve its rate of matter disposition and meet the Board's objective of reducing the level of pending matters and average processing time. These initiatives have had a positive impact on the Board's performance, and more importantly, will continue to have a compound effect in upcoming years. Finally, the Board continues to confer with its Client Consultation Committee, as part of the Board's strategic objective of strengthening linkages and obtaining feedback from its client community.

I am extremely proud and pleased with the accomplishments of the Board and its staff. We are, I believe, well positioned to improve on the fulfillment of our current mandate, with an emphasis on the reduction of both case processing time and the number of pending matters. I would like to take the opportunity to thank the Board's Vice-Chairpersons, Members and its staff for their determination, dedication and support they have provided me over the years.

Warren R. Edmondson
Chairperson

1.2 Management Representation Statement

I submit for tabling in Parliament, the 2006–07 Departmental Performance Report for the Canada Industrial Relations Board.

This document has been prepared based on the reporting principles contained in the *Guide for the Preparation of Part III of the 2006–07 Estimates: Reports on Plans and Priorities and Departmental Performance Reports*:

- It adheres to the specific reporting requirements outlined in the Treasury Board Secretariat guidance;
- It is based on the department's approved Strategic Outcome and Program Activity Architecture that were approved by the Treasury Board;
- It presents consistent, comprehensive, balanced and reliable information;
- It provides a basis of accountability for the results achieved with the resources and authorities entrusted to it; and
- It reports finances based on approved numbers from the Estimates and the Public Accounts of Canada.

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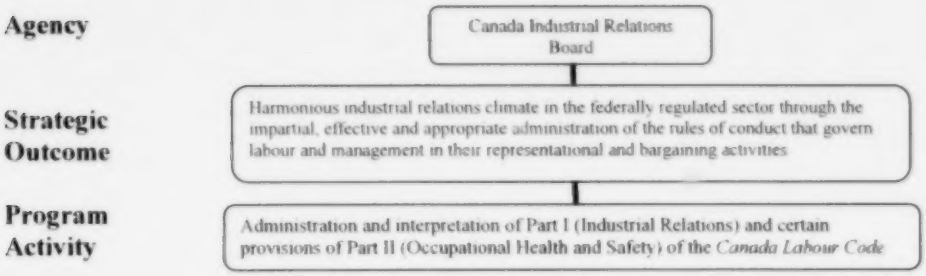
Warren R. Edmondson
Chairperson

1.3 Program Activity Architecture

Canada Industrial Relations Board–Program Activity Architecture (PAA)


Agency
Canada Industrial Relations Board
Strategic Outcome
Harmonious industrial relations climate in the federally regulated sector through the impartial, effective and appropriate administration of the rules of conduct that govern labour and management in their representational and bargaining activities
Program Activity
Administration and interpretation of Part I (Industrial Relations) and certain provisions of Part II (Occupational Health and Safety) of the *Canada Labour Code*

1.4 Summary Information

Reason for Existence – *The mandate of the Canada Industrial Relations Board is to contribute to and promote a harmonious industrial relations climate in the federally regulated sector through the impartial, effective and appropriate administration of the rules of conduct that govern labour and management in their representational and bargaining activities. In achieving this strategic outcome, the Board provides effective industrial relations solutions for the Canadian labour relations community in a fair and timely manner.*

Financial Resources (000's)

Planned Spending	Total Authorities	Actual Spending
$12,366.0	$12,665.2	$11,658.2

Human Resources

Planned	Actual	Difference
117	103	-14

Change in Management Performance

Initiative/Priority	Assessment
Accelerated reduction of the number of backlog cases	Successfully met
Reduction of average case disposition time	Successfully met
Monitoring and fine-tuning of new certification application process and disposition	Successfully met
Monitoring and fine-tuning of new duty of fair representation complaint process and disposition	Progress made/Ongoing
Review of reconsideration application process and disposition	Ongoing
Stakeholder consultations	Progress made/Ongoing

1.5 Context and Background

The Canada Industrial Relations Board (CIRB) is an independent, representational, quasi-judicial tribunal responsible for the interpretation and application of the *Canada Labour Code* (the *Code*), Part I, Industrial Relations, and certain provisions of Part II, Occupational Health and Safety. It was established in January 1999, to replace the previous Canada Labour Relations Board (CLRB), through amendments to Part I of the *Code*.

As of March 31, 2007, the adjudicative team of the Board was composed of the Chairperson, four full-time and three part-time Vice-Chairpersons, and four full-time and four part-time Members—all of whom are Governor in Council (GIC) appointees. It may be of interest to note that the *Code* requires that the Chairperson and Vice-Chairpersons must have experience and expertise in industrial relations, and that Members are to be appointed by the Minister of Labour, after consultation with the organizations representative of employees or employers.

The CIRB has jurisdiction in all provinces and territories with respect to federal works, undertakings or businesses in the following sectors:

- Broadcasting
- Chartered banks
- Postal services
- Airports and air transportation
- Shipping and navigation
- Inter-provincial or international transportation by road, railway, ferry or pipeline
- Telecommunications
- Grain handling and uranium mining and processing
- Most public and private sector activities in the Yukon, Nunavut and the Northwest Territories
- Band Councils and some undertakings of the First Nations on reserves
- Certain Crown corporations (including, among others, Atomic Energy of Canada Limited)

This jurisdiction covers some 1,000,000 employees and their employers, and includes enterprises that have an enormous economic, social, and cultural impact on Canadians from coast to coast. The variety of activities conducted by the federally regulated sector, as well as its geographical spread and national significance, contribute to the uniqueness of the federal jurisdiction and the role of the CIRB, and pose particular challenges for the Board's work.

The Board has established a series of strategic objectives in support of its mandate, which include to:

- conduct all its processes in accordance with the standards of the *Code*;
- seek solutions to labour relations problems by determining the cause and nature of conflict and by applying the appropriate dispute resolution mechanism, including fact finding, mediation and adjudication;
- conduct its activities in a timely, fair and consistent manner;

- consult its clients on its performance and on the development of policies and practices;
- promote an understanding of its role, processes and jurisprudence through continuous client contact and a variety of information dissemination methods (Web-based and conventional publishing, Board presentations at various forums, 1-800 information request line, etc.);
- conduct its business and manage its resources in a manner that is fiscally sound, in accordance with the *Financial Administration Act* and the policies and directives of the central agencies of government; and
- ensure continuous interaction with those utilizing Board services through meaningful communication and complaint processes.

1.6 Operating Environment

The last few years have witnessed significant developments and challenges in the sphere of labour relations in Canada and thus for the CIRB. Heightened competition, resulting from the globalization of markets, technological change, the volatility of national and international economies, and corporate mergers have all had an effect on employers, employees, unions and their relationships in Canada.

This is particularly evident in the federally regulated sector where the degree and rate of change has been largely unprecedented, particularly in the telecommunications, air transport (including airports and airport operations), trucking and rail industries. These profound changes associated with a workforce that is largely unionized have led to a situation where the Board is being increasingly called upon to resolve high profile and complex issues between bargaining parties, with substantial economic and social implications for the broader Canadian public.

Typical issues of continuing concern to the Board include:

- the need for assistance to be provided to companies and unions in resolving the labour relations implications of corporate mergers and take-overs—including the determination of bargaining unit structures, representation rights and the merger of collective agreements and seniority rights—notably in the airline and telecommunications industries;
- the acquisition and exercise of free collective bargaining rights, and the promotion of sound labour-management relations in a fair and transparent manner;
- the need to assure that collective bargaining between employers and unions is conducted fairly and in good faith;
- the scope of the duty of fair representation in respect of minority groups of employees;
- the determination of the levels of services required to be maintained during a work stoppage to ensure the protection of the health and safety of the Canadian public, particularly in such enterprises as airports, atomic energy production, and the air navigation system; and
- the prompt consideration of situations in which illegal work stoppages or lockouts are alleged.

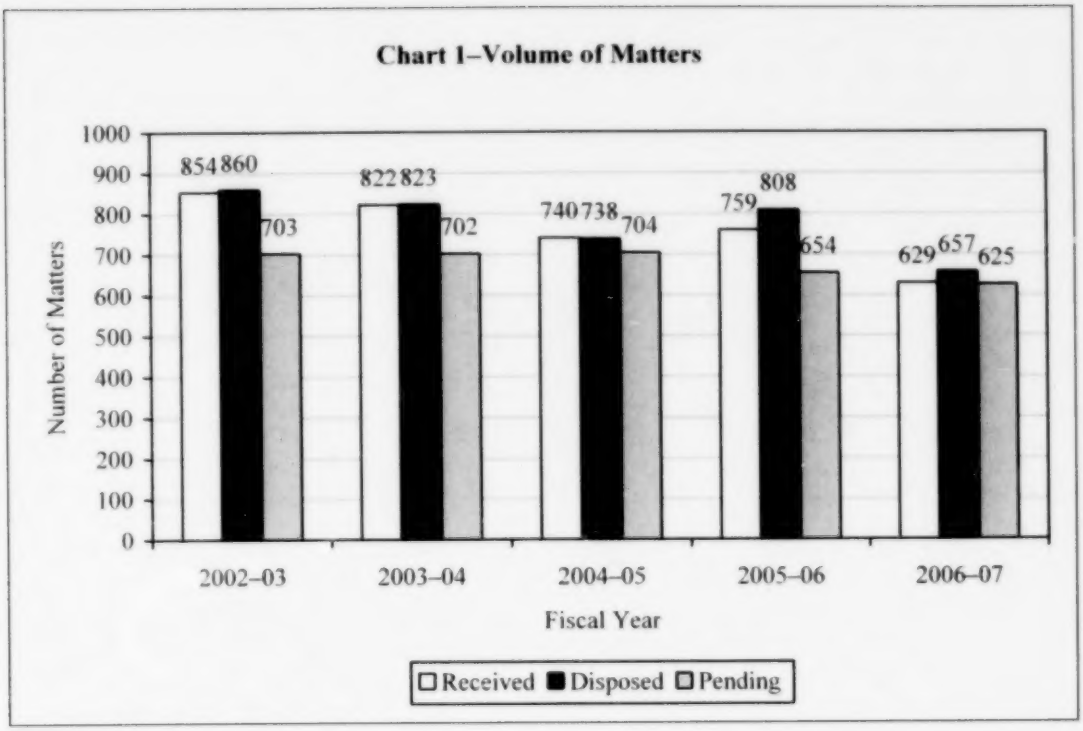
The complexity and impact of the issues facing federally regulated employers and unions require the Board to apply a wide range of knowledge and skills judiciously in diverse industrial relations and administrative law contexts. The demand for adjudicative services has thus been historically high, although declining to a more sustainable level over the last two years. Furthermore, the commitment of the Board to promote, wherever possible, the joint resolution of issues by the parties, along with clients' demands for the Board's assistance in mediating unresolved issues as an alternative to litigation, entails increasing demands on the Board's resources. Accordingly, the Board continues to place considerable emphasis on augmenting both its skill and resource levels to meet the needs of its clients.

1.6.1 Volume of Matters

In the years following the 1999 amendments to the *Code* that broadened the range of cases that could be heard by the CIRB, the number of applications and complaints filed with the Board rose considerably to 1,154 in 2000–01. Although that number tapered off to 822 in 2003–04, it is still indicative of the wide range of cases brought before the Board. In the five years preceding the *Code* amendments, the number of incoming matters averaged less than 740 per fiscal year. Over the last three fiscal years, however, the number of applications/complaints has dropped significantly. This is particularly evident in 2006–07, as the number of incoming matters fell to its lowest level since the early 1990s at 629 (see Chart 1).

The reasons for this decline are numerous, and would certainly include the solid jurisprudence that the Board has established since its inception. The Board has always maintained that the larger number of applications/complaints received by the CIRB in the years following the 1999 amendments to the *Code* were in part due to the lack of jurisprudence on the new *Code* provisions, since parties were more likely to litigate given the uncertain interpretation of the new *Code* provisions. Another contributing factor in the recent decline of incoming matters is the state of the economy and of the federally regulated sector. The Canadian economy has been doing quite well in the last few years. The rate of growth has been relatively robust and the level of unemployment has dropped to a level that has not been seen for thirty or more years. At the federal level, the wave of major consolidations and restructuring of the early 2000's, particularly in air transport and telecommunications sectors, has subsided. This has translated to fewer frictions on the industrial relations front, which can be seen by a lower incidence of strikes and lockouts, and also by fewer applications/complaints to the Board.

This appears to be borne out by the CIRB's information. Unfair labour practice (ULP) complaints, which usually represent 40% or more of incoming matters in any given year, and are an indicator of the labour relations climate, are down by 17% in 2006–07. Excluding duty of fair representation (DFR) complaints, which are complaints filed by union members against their union, and which are less sensitive to the state of the economy, the decline in ULP complaints is much more pronounced in 2006–07 at 36%. There were also significantly fewer applications for reviews in 2006–07 (-25%), particularly applications for reconsideration (-39%), and also for certification (-15%), although the decline in applications for certification is largely because there was an above average number of applications in the previous fiscal year.



With respect to the disposition of matters, while the Board has generally augmented its rate of matter disposition in recent years—it disposed of 855 matters per year on average over the five fiscal year periods of 2001–02 to 2005–06 compared to only 756 matters in the previous five fiscal years—its rate of disposition has fallen to 657 in 2006–07 (see Chart 1), the lowest level since 1998–99. This decline in the Board's rate of matter disposition can be attributed to a diminished adjudicative capacity in 2006–07, a situation that also affected the Board in 2004–05. Delays encountered in the appointment or reappointment of Board Members made it somewhat difficult to assign a Board panel to hear cases in many circumstances, and put the onus on single member panels. With the term of one Vice-Chairperson ending on December 31, 2006, the Board was operating with four full-time Vice-Chairpersons instead of five. However, since new cases are seldom given to Members whose term is not renewed or extended, in order for them to close the files they have before leaving, the Board has effectively been operating with four Vice-Chairpersons for most of the year. Unfortunately, this situation is likely to get much worse, as the term of three of the four remaining full-time Vice-Chairpersons, as well as the term of the Chairperson, will be ending in 2007–08.

Another reason for the lower adjudicative output in 2006–07 is that the Board invested in the long term by initiating a policy review of the handling of cases that deal with applications for certification, duty of fair representation complaints and, more recently, applications for reconsideration. The goal of these policy reviews is to reduce the effort and/or time required to process those types of cases. Each of these three reviews is presided over by a Vice-Chairperson. Consequently, this reduces the amount of time he or she has to adjudicate cases *per se*.

Nevertheless, given the decline in incoming matters, the Board felt that this would be an appropriate time to undertake these reviews.

Notwithstanding the lower level of matter disposition, the number of pending matters had fallen to 625 by the end of 2006–07 (see Chart 1), the lowest level since 1997–98.

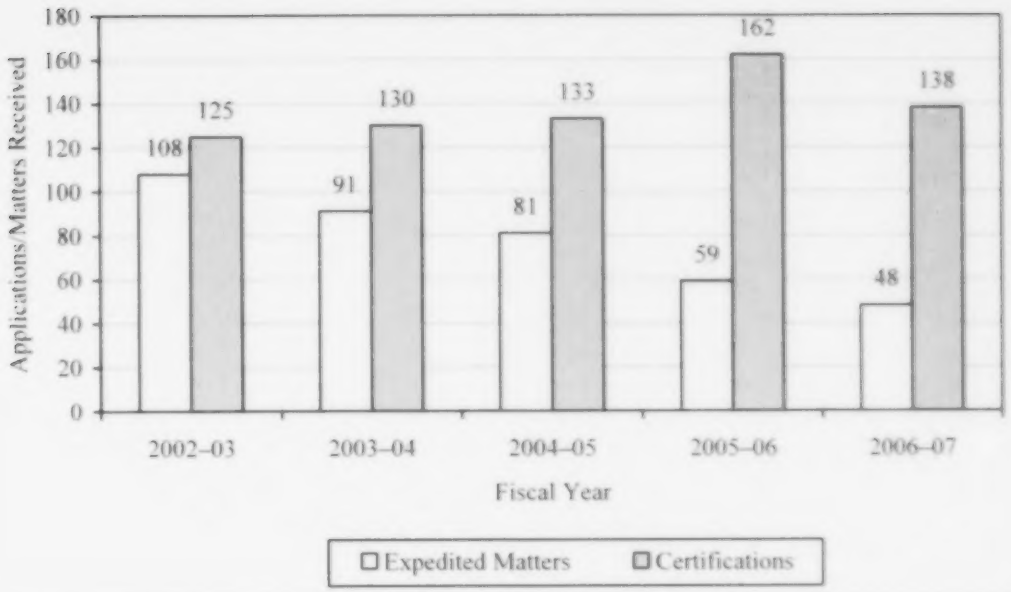
1.6.2 Expedited Matters

The *Canada Industrial Relations Board Regulations, 2001* (the *Regulations*) stipulate that certain types of matters require expedited action. These cases include interim order requests, requests to file Board orders in Court, referrals to the Board by the Minister of Labour relating to the maintenance of activities required during a legal work stoppage, applications for a declaration of an invalid strike or lockout vote, applications for a declaration of unlawful strike or lockout, and unfair labour practice complaints respecting the use of replacement workers and dismissals for union activities. Such matters are scheduled, heard and decided in an expedited manner relative to others matters. Priority is also given to the processing and consideration of certification applications, and to any other matter where there appears to be a significant potential for industrial relations problems if there is a delay in its resolution, or where other identifiable factors require a matter to be promptly addressed.

The setting of priorities inevitably results in the deferral of less urgent matters. Scheduling pressures, consequent upon the volume and priority setting, can make very lengthy or complex matters—the kind of matters that are now typically scheduled for oral hearing at the Board—difficult to resolve expeditiously, particularly in view of the reduced adjudicative capacity noted earlier.

The number of matters requiring expedited or priority processing, including applications for certification, has also generally increased since the 1999 amendments to the *Code*. These matters accounted for almost 30% of all applications/complaints received in 2006–07, although the absolute number was somewhat lower than that observed in the previous four years. Chart 2 sets out the volume of expedited matters and certifications from 2002–03 to 2006–07.

Chart 2–Expedited Matters and Certifications



SECTION II–CIRB PERFORMANCE (Analysis of Program Activities by Strategic Outcome)

The key strategic outcome of the Board is to contribute to and promote a harmonious industrial relations climate in the federally regulated sector through the impartial, effective and appropriate administration of the rules of conduct that govern labour and management in their representational and bargaining activities.

That being said, it is clear that when the Board receives an application or complaint, it is usually because there is some form of unresolved conflict or problem that the involved parties have been incapable of resolving on their own. By resolving the matter, through mediation or by issuing a decision, the Board effectively and directly contributes to its strategic outcome. It is important in this respect to emphasize that the impact of the work of the CIRB can be both broad-ranging and significant. The Board's decisions and mediation efforts often affect in very tangible ways the working lives of thousands of Canadians, the economic position of leading Canadian corporations, and the general well-being of the Canadian public.

The Board also contributes, in an indirect but no less effective manner, to effective industrial relations in the federal jurisdiction. Each time it issues a decision, the Board adds to its growing and diverse jurisprudence, which is widely disseminated to the industrial relations community. Clear and consistent jurisprudence provides an environment where potential litigants are more likely to resolve matters on their own than to bring the matter before the Board. It is, however, difficult to ascribe a quantitative measure to this.

2.1 Written Decisions

Another factor affecting the CIRB's adjudicative output has been the increased incidence of issuing more detailed written decisions, which require more time and resource to produce. The disposition of more complex cases frequently requires more detailed decisions[1]. Although the absolute number of complex matters disposed of by the Board in 2006–07 was lower than in previous years, those matters involved cases of significant importance, which demanded far more effort to adjudicate than what is usually required for complex matters. These cases include notable matters such as those involving VIA Rail, TELUS, NAV CANADA and Aliant Telecom. Also, uncertainties resulting from the new legislative provisions introduced in 1999, and the lack of jurisprudence in applying them have resulted in a situation where parties have been more prone to litigate many contentious matters requiring written decisions.

Together, these two factors have led to an increase in the need for the Board to interpret and apply the *Code* in matters involving provisions that were revised and/or added, which, in turn, is reflected in a significant increase in Board jurisprudence. These decisions serve both to resolve the issues relevant to complex circumstances and to clarify the way the *Code*, including the new

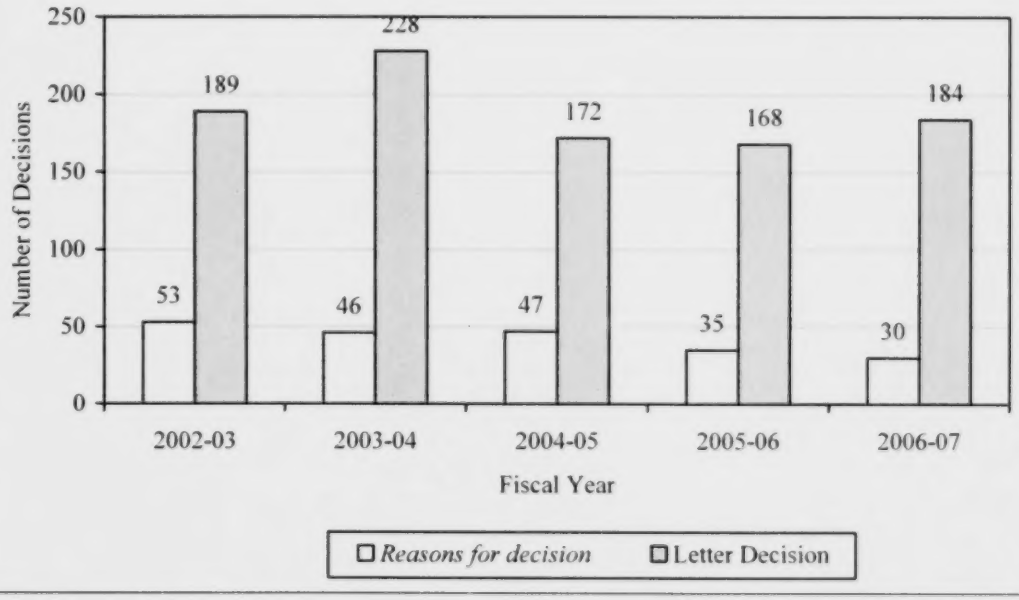
[1] The Board issues detailed *Reasons for decision* in matters of broader national significance and/or significant precedential importance. In other matters, more concise letter decisions help expedite the decision-making process, thereby providing more timely industrial relations outcomes for parties.

Code provisions, will apply in evolving circumstances. In this respect, the Board strives to provide timely, good and legally sound decisions that are also consistent across similar matters in order to establish strong and clear jurisprudence, which in turn should reduce the likelihood of a demand for reconsideration, as well as reducing the likelihood of applications to the Federal Court of Appeal for judicial review.

The Board's experience of issuing *Reasons for decision* and letter decisions in the last five fiscal years is reflected in Chart 3. On average, the CIRB has issued more than 40 of the more detailed *Reasons for decision* each year over the last five years, and 188 letter decisions, for a total of 230 written decisions on average. In 2006–07, the Board produced 184 letter decisions and 30 *Reasons for decision*. The balance of matters are either withdrawn or disposed of by orders. In the five fiscal years prior to the *Code* amendments, the Board issued an average of 37 *Reasons for decision* per year and 128 letter decisions.

See Section 4.1 for examples of illustrative Board decisions.

Chart 3–Decisions

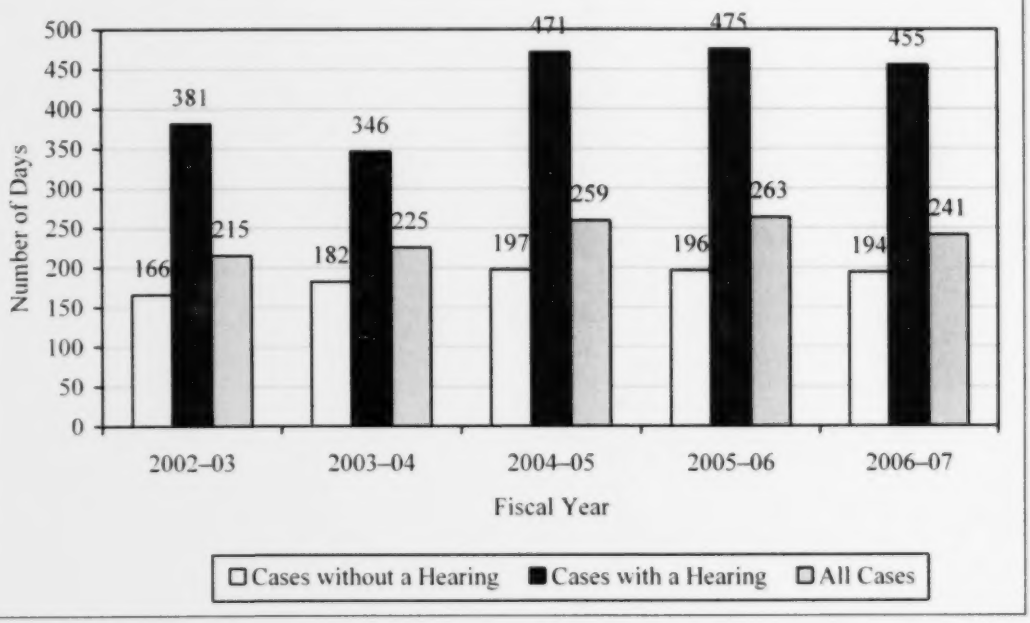


2.2 Processing Time

The time required by the Board to process a file—the time spent opening, investigating, mediating, hearing, where required, and deciding a case—has dropped significantly in 2006–07, averaging 241 calendar days compared to 263 days in 2005–06 and 259 days in 2004–05 (see

Chart 4). This remains higher than the average of 218 days that the Board recorded in its first five years (1999–00 to 2003–04).

Chart 4–Processing Time



There are three key reasons for this increase. First, the CIRB experienced a diminished adjudicative capacity in 2004–05 and 2006–07, and even though vacancies were filled for 2005–06, some time is required before new Vice-Chairpersons and Members become fully operational. While this affected the processing of all matters, it made it particularly difficult to deal with cases that called for both a full panel (Chairperson or Vice-Chairperson and two Members) and hearings. The second key reason is related to the increased incidence of complex matters, which represented 11.4% of matters disposed of in the last three years compared to less than 10% in the 1999–00 period. Since these matters, by their nature, typically take longer to process, the overall average processing time will increase if their proportion rises. And finally, the third reason, which is somewhat related to the first but far more important, is that there have been an inordinate number of long-standing matters that have been settled in the last three fiscal years.

Table 1 shows the distribution of matters disposed of by processing time for the first five years of the CIRB compared to the last three fiscal years. It indicates that whereas cases taking more than two years to dispose of represented 4.4% of matters on average in the period of 1999–00 to 2003–04, this proportion increased considerably in the next three fiscal years. The bulk of these long-standing matters involve unfair labour practice (ULP) complaints, which tend to be deferred in favour of more pressing matters. In fact, almost 57% of matters that took more than one year to dispose of in 2006–07 were ULP complaints.

Table 1–Distribution of Matters Disposed of by Processing Time

Disposed of in	1999–00 to 2003–04	2004–05	2005–06	2006–07
Less than six months	60.4%	55.0%	59.4%	64.2%
Six months to one year	22.2%	21.1%	18.7%	13.9%
One to two years	13.0%	17.5%	13.0%	15.7%
More than two years	4.4%	6.4%	8.9%	6.2%
	100.0%	100.0%	100.0%	100.0%

On the other hand, Table 1 also indicates that more than 64% of matters were disposed of in less than 6 months in 2006–07, which is a noticeable improvement over the previous two fiscal years as well as an improvement over the 1999–00 to 2003–04 period. This would indicate that the measures that the Board has taken over the last couple of years to reduce processing time are taking effect.

2.3 Decision-making Time

One component of the overall processing time is the length of time required by a Board panel[2] to prepare and issue a decision, following the completion of the investigation and/or hearing of a matter. A panel may decide a case without a hearing on the basis of written and documentary evidence, such as investigation reports and written submissions, or may defer the decision until further evidence and information is gathered via an oral hearing. Chart 5 presents the decision-making time for both types of decisions[3] for the last five fiscal years.

Similarly to processing time, and for many of the same reasons, the average decision-making time of matters disposed of has tended to increase since the early 2000s. However, despite the operational difficulties noted previously, average decision-making time fell radically from 120 days in 2005–06 to 77 days in 2006–07, the lowest it has been since 2001–02. This, associated with the moderate decline in 2005–06, again appears to indicate that the measures that the Board has taken over the last couple of years to reduce overall processing time are taking effect.

Perhaps a better way to look at the Board's performance on decision-making time is to use section 14.2(2) of the *Code* as a benchmark, which requires that a panel must render its decision and give notice of it to the parties no later than ninety days after the day on which it reserved its decision or within any further period that may be determined by the Chairperson. By this criterion, the Board has done quite well in 2006–07 when compared to previous years. Table 2 shows that almost 79% of decisions were rendered in 90 days or less in 2006–07, the highest level in the last five fiscal years.

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[2] A panel is composed of the Chairperson or a Vice-Chairperson for single member panels, or the Chairperson or a Vice-Chairperson and two Members in a full panel.

[3] The Board measures its disposition time for cases decided with a public hearing from the date it reserves its decision (which generally coincides with the last day of the hearing) to the date the decision is issued to the parties. Where cases are decided without an oral hearing, the disposition time is measured from the date the case is deemed to be "ready" for the Board's consideration to the date the final decision is issued.

Chart 5–Decision-making Time

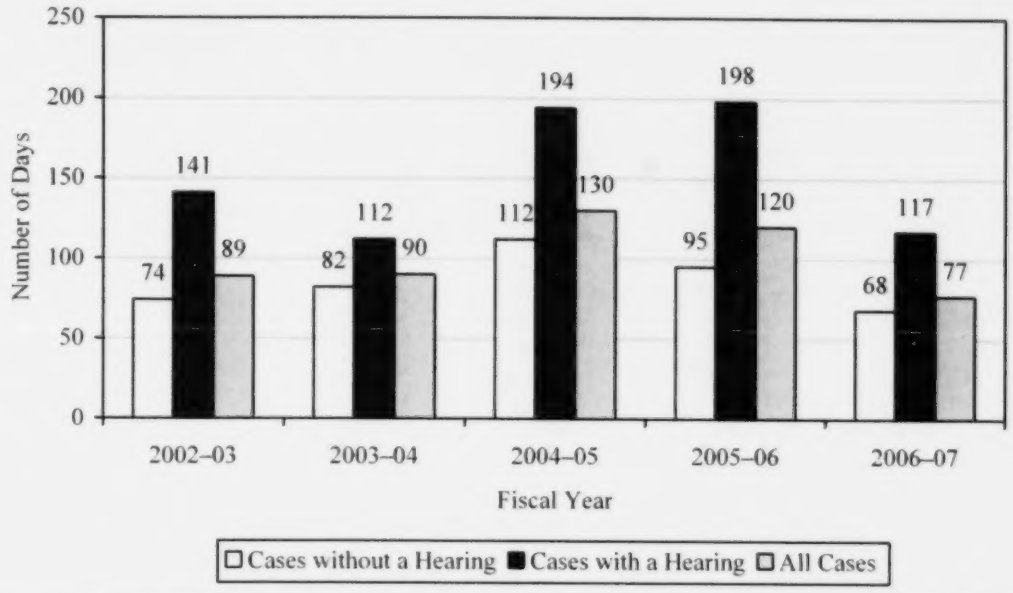

Table 2–Distribution of Matters Disposed of by Decision-making Time

Decisions rendered in	2002–03	2003–04	2004–05	2005–06	2006–07
90 days or less	67.8%	69.6%	61.5%	72.6%	78.8%
More than 90 days	32.2%	30.4%	38.5%	27.4%	21.2%

2.4 Judicial Reviews

Another measure of the CIRB's performance, as well as a measure of the quality and soundness of its decisions, is the frequency of applications for the judicial review of Board decisions to the Federal Court, and the percent of decisions upheld by the reviews. In this respect, the CIRB has performed exceptionally well.

Table 3 shows the pattern of judicial reviews over the last five fiscal years, and indicates that 15 judicial reviews were filed in 2006–07, representing 2.3% of all matters disposed of by the Board in that year. This percentage is somewhat lower than typical, notwithstanding annual fluctuations, as judicial reviews have represented 3.3% of matters disposed of on average over this period. With respect to the outcome of the reviews before the Federal Court, the Board's decisions have been upheld in more than 96% of cases in the last five years, even attaining 100% in the last three years.

See Section 4.2 for examples of illustrative judicial reviews in 2006–07.

Table 3–Applications for Judicial Review

	2002–03	2003–04	2004–05	2005–06	2006–07
Matters disposed of by CIRB	860	823	738	808	657
Judicial reviews filed	22	33	32	25	15
Percent reviewed (%)	2.6	4.0	4.3	3.1	2.3
Reviews disposed of	26	27	31	37	14
Reviews granted	1	1	0	0	0
Reviews dismissed	11	12	18	20	8
Reviews withdrawn	14	14	13	17	6
Board success rate (%)	96.2	96.3	100.0	100.0	100.0

2.5 Change Management Performance

In its 2006–07 Report on Plans and Priorities, tabled in Parliament in early spring of 2006, the CIRB identified five main priorities on which it would set its attention. These were the monitoring and fine-tuning of the new certification application process, the monitoring and fine-tuning of the new duty of fair representation complaint process, the accelerated reduction of the number of backlog cases, the reduction of average case disposition time, and the review of the reconsideration application process. The progress on each of these priorities is provided below.

2.5.1 New Procedures for the Processing of Certification Applications

Following consultations with major client groups and stakeholders, the CIRB established a committee in 2004–05 to review its case processing practices with respect to certification applications and to recommend ways in which the Board could expedite the disposition of these matters. New procedures were developed and tested as a pilot project in late 2004–05, and the new procedures were refined and adopted as of April 1, 2005. The main objective of the new procedures is to process and dispose of standard certification applications—those that do not include situations involving complex issues of law or jurisdiction and that do not require a vote—in 50 days or less. This was an ambitious goal even for standard applications, and while the CIRB recognized from the outset that it would not be met for non-standard applications, it nevertheless expected the new procedures to reduce their average processing time.

There were a total of 300 applications for certification received by the Board in 2005–06 and 2006–07. Of these, 249 were disposed of and 51 remained pending at the end of 2006–07. Twenty-seven of these pending applications had been pending for less than 50 days.

With respect to the 249 certification applications that were disposed of, Table 4 shows that their processing time demonstrated a phenomenal improvement over previous years. The processing time for these applications averaged 74 days (67 days without a vote, 129 days with vote) compared to an average processing time of 179 days (165 days without a vote, 301 days with vote) for certification applications in the five fiscal years preceding 2005–06. This represents a reduction in processing time of almost 60%.

In view of these results, it is fair to state that the new certification procedures have met their declared objective.

Table 4–Processing Time, Certification Applications Received before and after April 1, 2005

	2000–01 to 2004–05		2005–06 and 2006–07	
			Applications Received on or after April 1, 2005	
	Applications Disposed of	Processing Time (Days)	Applications Disposed of	Processing Time (Days)
Total	779	179	249	74
With vote	81	301	28	129
Without vote	698	165	221	67

2.5.2 New Procedures for the Processing of Duty of Fair Representation Complaints

As was the case for the treatment of certification applications, following consultations with stakeholders, the CIRB established a committee in 2005–06 to review its case processing practices with respect to duty of fair representation complaints (DFR) and to recommend ways in which the Board could expedite their disposition. Although DFRs are not usually the type of matter that require priority attention—they are often deferred in favour of other more important matters—their relative number is significant and they thus have an important impact on the Board's overall processing performance and backlog of cases. Indeed, DFRs represent almost 23% of all applications/complaints received in the last five fiscal years, and since they are more likely to be deferred, they only represent 19% of matters disposed of. As a result, the number of pending DFR complaints has grown from 148 in 2001–02 to 270 at the end of 2005–06, which represents more than 41% of all pending matters.

The new procedures, which were put into place starting on January 1, 2006, contain two new main measures. By far, the most important of these measures is the addition of a new process, whereby the complaint is quickly referred to a panel of the Board to assess whether there are sufficient grounds for the complaint to proceed (a *prima facie* case). If it is determined by a Vice-Chairperson that there is no *prima facie* case, a summary decision is issued and the file is closed. If, however, the complaint warrants further consideration, then the process essentially follows the course it would have under the old procedures. The second main measure of the new procedures concerns the response times of the concerned parties at various stages, and the consequences of not meeting them. It should be noted that the main objective of the new DFR process was not to reduce the average processing time of this type of complaint *per se*, although it was expected to have that effect, but to reduce the Board's effort in dealing with DFR complaints that were either frivolous or did not have sufficient or legal grounds to be considered.

Since the new procedures only came into effect on January 1, 2006, there is not a sufficient number of DFR complaints that have been disposed of under the new regime to properly assess its long-term impact and effectiveness. However, information to date suggests that the new procedures will have the desired effect. Table 5 shows that, in 2006–07, the CIRB disposed of 19 more DFR complaints than were disposed of on average in the previous five years. Moreover, whereas fewer DFR complaints were disposed of in the 2001–02 to 2005–06 period than the

number of complaints received, thereby adding to the number of backlog cases, the opposite is true in 2006–07. Table 5 also suggests that the improvement in processing time will be as spectacular as it has been for the certification applications, as the average processing time for DFR complaints processed under the new procedures dropped to 133 days in 2006–07, compared to the average of 298 days in the previous five fiscal years.

Table 5–Number and Processing Time of Duty of Fair Representation Complaints Received before and on or after January 1, 2006

		Received	Disposed of	
		Number of Matters	Number of Matters	Processing Time (Days)
Average 2001–02 to 2005–06		176	152	298
2006–07	Total	170	171	338
	Before January 1, 2006	0	86	540
	On or after January 1, 2006	170	85	133

The CIRB will continue to monitor the impact of the new DFR process, but the indication thus far is that it will have a significant effect on the backlog of pending matters in the coming years.

2.5.3 Cumulative Effects of Change Management Initiatives

Since taking office in January of 2004, the CIRB's Chairperson, Mr. Warren Edmondson, has made it a priority to ensure that the Board's mandate be achieved as effectively and efficiently as possible, and to improve the CIRB's performance with respect to processing and decision-making times with a goal of ultimately reducing the number of backlog cases that had persisted over the previous years. Other than the major initiatives mentioned in this report, many other administrative and operational measures were undertaken under his stewardship to reach this goal.

It would therefore be interesting to gauge what cumulative effect, if any, these measures have had on the Board's performance. Table 6 shows the average processing and decision-making times of matters disposed of in the period 1999–00 to 2003–04 compared with the disposition of matters received after January 1, 2004. The difference is striking. The number of days to process matters fell from an average of 220 days in the five fiscal-year period of 1999–00 to 2003–04 to 160 days in the 2004–05 to 2006–07 period, a reduction of 38%. Similarly, average decision-making time dropped from 76 days over the 1999–00 to 2003–04 period to an average of 55 days over the 2004–05 to 2006–07 period, also a 38% reduction. These improvements, as impressive as they are, would probably have been even more important had the Board's judicial team consisted of its full complement in 2004–05 and 2006–07.

Table 6–Processing and Decision-making Times, Applications Received before and after January 1, 2004

1999–00 to 2003–04			2004–05 and 2006–07		
			Applications Received on or after January 1, 2004		
Applications Disposed of	Processing Time (Days)	Decision-making Time (Days)	Applications Disposed of	Processing Time (Days)	Decision-making Time (Days)
4,567	220	76	1,755	160	55

2.5.4 Other Identified Change Management Priorities

In its 2006–07 Report on Plans and Priorities, the CIRB also identified the reduction of case processing time as well as the reduction in the number of backlog cases among its priorities. These priorities were more of a high-level objective that were to be attained through more specific means such as changes in the processing of certification applications and duty of fair representation complaints, as well as various administrative and/or operational modifications.

Nevertheless, the Board's statistics indicate that both of these objectives have been met. The new processes and other operational changes, as mentioned in the previous section, are starting to pay off, and, as the stock of older cases (those received before January 2004) diminishes, their effect will be more evident.

As for the reduction of backlog cases, there is no doubt that if the Board had operated with a full adjudicative team in 2004–05 and 2006–07, the number of backlog cases could easily have been lower by at least 100 cases. Nonetheless, the number of backlog cases did drop over the last two years, standing at 625 at the end of March 2007, after having essentially stood still the four previous years at between 702 and 709 cases.

As for the applications for reconsideration process review, the Board's reduced adjudicative capacity made it difficult to progress significantly in 2006–07. However, work in this area will continue.

2.6 Other Results

In support of meeting its strategic outcome, the CIRB has also undertaken and/or achieved the following:

- Following the multi-year migration of its main case management tool—the Case Management System (CMS)—in replacement of its old obsolete system, the CIRB continued with the implementation of enhancements to this extremely complex system. Many of the advantages of these enhancements may be less of a technical nature however, and lie more in the review of business rules and processes that such an exercise necessitates, as well as the thorough audit and examination of information held on the system. The Board also continued to implement enhancements to, or improve, its document management system and integrate it to the CMS; its videoconferencing capabilities; a comprehensive and dynamic CIRB intranet; a secure remote access to

CIRB databases for Board members and staff; and an examination of the potential for electronic filing of applications and documents.

- Through its 1-800 information hotline, the CIRB received more than 6,600 various information requests in 2006–07. Approximately 29% of these requests concerned a matter relating to another jurisdiction (either a provincial ministry of labour, a provincial labour relations board or Human Resources and Skills Development Canada) and were easily redirected. This still leaves close to 4,700 inquiries that needed a more involved response from the Board, compared to the 4,300 inquiries received in 2005–06. Requests for information generally pertain to case hearing dates, documents or decisions on file, Board statistics and other various matters.

- The CIRB has continued the development of information circulars and practice notes to provide clear and concise summaries of Board practices to its clients and the general public. In essence, information circulars and practice notes are meant to increase the accessibility and transparency of Board processes by providing common-language instructions respecting the interpretation and application of the *Code* and *Regulations*. The information circulars, it is expected, will make the Board's processes easier for clients to understand and manage, and ensure that the substance of matters can be more easily and quickly addressed. They are also expected to allow pre-hearing procedures to continue to reduce the actual time required in the hearing process by ensuring that pre-hearing information disclosure processes are as effective as possible and that preparation for all matters scheduled for hearing is as complete as possible.

- The CIRB continued to revise and update its Web site in order to make more information about the Board—including its decisions—more widely available and accessible to the Canadian public.

- CIRB members and staff have made presentations and addresses at a number of industrial relations conferences and seminars across Canada. This has been directed at improving ongoing contact with and feedback from the Board's stakeholder communities.

SECTION III–SUPPLEMENTARY INFORMATION

3.1 Organizational Information

3.1.1 Mandate, Role and Responsibilities

The *Constitution Act, 1867*, provides that provincial jurisdiction extends over "Property and Civil Rights," meaning that the negotiation of collective agreements containing terms and conditions of employment for employees is regulated by the provinces. The Constitution, however, assigns exclusive jurisdiction to Parliament over specific sectors of the economy, and as such, it has seen fit to enact laws regulating employment matters within those sectors that have constitutionally been reserved to it. Laws governing the federal jurisdiction are contained in the *Code*, which is divided into three parts:

Part I – Industrial Relations
Part II – Occupational Health and Safety
Part III – Labour Standards

Part I of the *Code* sets out the terms under which trade unions may acquire the legal right to represent employees in the negotiation of collective agreements with their employer. It also delineates the process under which collective bargaining takes place and provides remedies to counter infractions committed by any party subject to the *Code*'s provisions.

Part I of the *Code* had remained virtually unchanged since 1972. However, with the coming into force on January 1, 1999, of Bill C-19, an *Act to amend the Canada Labour Code (Part I)*, R.S. 1998, c. 26, significant changes were made to the *Code* in an effort to modernize it and improve the collective bargaining process for federally regulated industries. The *Act* replaced the Canada Labour Relations Board with the Canada Industrial Relations Board as an independent, representational, quasi-judicial tribunal responsible for the interpretation and application of Part I, Industrial Relations, and certain provisions of Part II, Occupational Health and Safety, of the *Canada Labour Code*.

The Canada Industrial Relations Board's ***mandate*** *is to contribute to and to promote effective industrial relations in any work, undertaking or business that falls within the authority of the Parliament of Canada.*

In support of its mandate, the Board established the following vision and values:

- decisions on applications and complaints provided in a fair, expeditious and economical manner;
- successful resolution of cases through appropriate dispute resolution mechanisms;
- an involved and well-informed labour relations community;
- effective *Regulations* and practices developed through consultation with clients.

In the discharge of its mandate and the exercise of its powers, the Board aims to be progressive and innovative, efficient and effective, open and accountable. The working environment at the Board promotes learning and development, harmony, teamwork and respect.

The Board's **role** is to exercise its powers in accordance with the Preamble and provisions of the *Code*, which state that Parliament considers "the development of good industrial relations to be in the best interests of Canada in ensuring a just share of the fruits of progress to all." To that end, the Board aims to be responsive to the needs of the industrial relations community across Canada.

3.1.2 Departmental Organization

The Board, as provided for in the *Code*, is composed of the Chairperson, two or more full-time Vice-Chairpersons, not more than six full-time Members (of which not more than three represent employers and not more than three represent employees) and any other part-time Members (representing, in equal numbers, employees and employers) necessary to discharge the responsibilities of the Board. All are appointed by the GIC: the Chairperson and the Vice-Chairpersons for terms not to exceed five years, the Members for terms not to exceed three years. (Information on Board Members can be found at http://www.cirb-ccri.gc.ca/about/members/index_e.asp.)

The Chairperson is the chief executive officer of the Board. The provisions of the *Code* assign to the Chairperson supervision over, and direction of, the work of the Board, including:

- the assignment and reassignment to panels of matters that the Board is seized of;
- the composition of panels and the assignment of Vice-Chairpersons to preside over panels;
- the determination of the date, time and place of hearing;
- the conduct of the Board's work;
- the management of the Board's internal affairs;
- the duties of the staff of the Board.

The Board's headquarters are located in the National Capital Region. Support to the Board is provided by the Executive Director, reporting directly to the Chairperson. The Executive Director is responsible for regional operations, case management, client and corporate services, financial services and human resources. The Legal Services Branch provides legal assistance as required by the Board and its units and the General Counsel also reports directly to the Chairperson of the Board.

The Board also has five regional offices in Dartmouth, Montréal, Ottawa, Toronto and Vancouver, with a satellite office in Winnipeg. These offices are staffed by labour relations professionals and case management teams. Each regional office is headed by a regional director, who reports to the Executive Director in Ottawa.

3.1.3 To Contact the Board

Toll-free: 1-800-575-9696
People who use TTY should place calls with the assistance of a Bell Relay Service operator at:
1-800-855-0511
E-mail: info@cirb-ccri.gc.ca
Web site: http://www.cirb-ccri.gc.ca

Further information on how to contact the regional offices can be found at http://www.cirb-ccri.gc.ca/contact/index_e.asp.

3.2 Financial Performance Summary and Summary Tables

Financial Summary Tables

The following tables are applicable to the Board:

Table 1–Comparison of Planned to Actual Spending (including FTEs)
Table 2–Resources by Program Activity
Table 3–Voted and Statutory Items
Table 4–Services Received Without Charge
Table 5–Financial Statements
Table 6–Response to Parliamentary Committees, and Audits and Evaluations for Fiscal Year 2006–07
Table 7–Travel Policies

Table 1–Comparison of Planned to Actual Spending (including FTEs)

This table offers a comparison of the Main Estimates, Planned Spending, Total Authorities, and Actual Spending for the most recently completed fiscal year, as well as historical figures for Actual Spending. The Total Authorities granted to the Board were approximately $299,000 more than originally planned. The additional authorities consisted mainly of:

- $480,000 carried over from previous fiscal years;
- $30,000 procurement savings;
- $97,000 to offset employee salary increases as a result of collective bargaining;
- A reduction of $308,000 in the allowance for the contribution to employee benefits.

Actual spending represented 92% of authorized amounts.

			2006–07			
($ thousands)	2004–05 Actual	2005–06 Actual	Main Estimates	Planned Spending	Total Authorities	Total Actuals
Administration and interpretation of Part I (Industrial Relations) and certain provisions of Part II (Occupational Health and Safety) of the *Canada Labour Code*	12,439.3	12,286.9	12,396.0	12,366.0	12,665.2	11,658.2
Total	**12,439.3**	**12,286.9**	**12,396.0**	**12,366.0**	**12,665.2**	**11,658.2**
Less: Non-respendable revenue*	-0.9	-1.1	N/A	0.0	N/A	-0.9
Plus: Cost of services received without charge	2,462.4	2,785.9	N/A	2,941.0	N/A	2,822.4
Total for the Board Spending	**14,900.9**	**15,071.7**	**N/A**	**15,307.0**	**N/A**	**14,479.7**
Full-time Equivalents	**105**	**104**	**N/A**	**117**	**N/A**	**103**

** The non-respendable revenue consists essentially of fees collected for access to information requests and parking fee reimbursements.*

Table 2–Resources by Program Activity

The following table provides information on how resources are used for the most recently completed fiscal year.

2006–2007				
($ thousands)	Budgetary			
Program Activity	**Operating**	**Total: Gross Budgetary Expenditures**	**Less: Respendable Revenue**	**Total: Net Budgetary Expenditures**
Administration and interpretation of Part I (Industrial Relations) and certain provisions of Part II (Occupational Health and Safety) of the *Canada Labour Code*				
Main Estimates	12,396.0	12,396.0	0.0	**12,396.0**
Planned Spending	12,366.0	12,366.0	0.0	**12,366.0**
Total Authorities	12,665.2	12,665.2	0.6	**12,664.9**
Actual Spending	11,658.2	11,658.2	0.0	**11,658.2**

Table 3–Voted and Statutory Items

This table explains the way Parliament votes resources to the CIRB and basically replicates the summary table listed in the Main Estimates. Resources are presented to Parliament in this format. Parliament approves the votes funding and the statutory information is provided for information purposes.

($ thousands)		2006–07			
Vote or Statutory Item	**Truncated Vote or Statutory Wording**	**Main Estimates**	**Planned Spending**	**Total Authorities**	**Total Actuals**
10	Operating Expenditures	10,822.0	10,792.0	11,398.5	10,391.8
(S)	Contributions to Employee Benefit Plans	1,574.0	1,574.0	1,266.4	1,266.4
(S)	Crown Assets Surplus	**0.0**	**0.0**	**0.3**	**0.0**
	Total	**12,396.0**	**12,366.0**	**12,665.2**	**11,658.2**

Table 4–Services Received Without Charge

($ thousands)	2006–07
Accommodation provided by Public Works and Government Services Canada	2,205.7
Contributions covering employers' share of employees' insurance premiums and expenditures paid by Treasury Board of Canada Secretariat (excluding revolving funds). Employers' contribution to employees' insured benefits plans and associated expenditures paid by TBS	616.7
Salary and associated expenditures of legal services provided by the Department of Justice Canada	0.0
Total 2006–07 Services Received Without Charge	**2,822.4**

Table 5–Financial Statements

Canada Industrial Relations Board
Statement of Management Responsibility

Responsibility for the integrity and objectivity of the accompanying financial statements for the year ended March 31, 2007, and all information contained in these statements rests with the Board's management. These financial statements have been prepared by management in accordance with Treasury Board accounting policies, which are consistent with Canadian generally accepted accounting principles for the public sector.

Management is responsible for the integrity and objectivity of the information in these financial statements. Some of the information in the financial statements is based on management's best estimates and judgment and gives due consideration to materiality. To fulfil its accounting and reporting responsibilities, management maintains a set of accounts that provides a centralized record of the Board's financial transactions. Financial information submitted to the Public Accounts of Canada and included in the Board's Departmental Performance Report is consistent with these financial statements.

Management maintains a system of financial management and internal control designed to provide reasonable assurance that financial information is reliable, that assets are safeguarded and that transactions are in accordance with the *Financial Administration Act*, are executed in accordance with prescribed regulations, within Parliamentary authorities, and are properly recorded to maintain accountability of Government funds. Management also seeks to ensure the objectivity and integrity of data in its financial statements by careful selection, training and development of qualified staff, by organizational arrangements that provide appropriate divisions of responsibility, and by communication programs aimed at ensuring that regulations, policies, standards and managerial authorities are understood throughout the Board.

The financial statements of the Board have not been audited.

Canada Industrial Relations Board
Statement of Operations (unaudited)

For the Year Ended March 31	2007	2006
(in dollars)		
Expenses		
Salaries and employee benefits	9,716,573	9,504,892
Accommodation	2,206,000	2,167,453
Professional and special services	884,921	957,776
Travel and relocation	681,556	609,273
Communication	416,349	381,670
Equipment	124,528	293,863
Equipment rentals	170,912	172,830
Amortization	454,078	155,982
Repairs and maintenance	139,146	125,252
Utilities, materials and supplies	151,872	141,762
Information	11,905	15,462
Miscellaneous	132	433
Total Expenses	**14,957,972**	**14,526,648**
Revenues		
Miscellaneous revenues	965	1,066
Total Revenues	**965**	**1,066**
Net Cost of Operations	**14,957,007**	**14,525,582**

The accompanying notes form an integral part of these financial statements.

Canada Industrial Relations Board
Statement of Financial Position (unaudited)

At March 31	2007	2006
(in dollars)		
Assets		
Financial Assets		
Accounts receivable (Note 4)	374,925	247,994
Advances	4,900	6,900
Total Financial Assets	379,825	254,894
Non-financial Assets		
Tangible capital assets (Note 5)	2,654,827	3,024,205
Total	**3,034,652**	**3,279,099**
Liabilities and Equity of Canada		
Liabilities		
Accounts payable and accrued liabilities	993,559	1,057,618
Vacation pay and compensatory leave	444,245	428,880
Lease obligation for tangible capital assets (Note 6)	0	2,036
Employee severance benefits (Note 7)	1,653,381	1,484,295
	3,091,185	2,972,829
Equity of Canada	**(56,533)**	**306,270**
Total	**3,034,652**	**3,279,099**

The accompanying notes form an integral part of these financial statements.

Canada Industrial Relations Board
Statement of Equity of Canada (unaudited)

For the Year Ended March 31	2007	2006
(in dollars)		
Equity of Canada, beginning of year	306,270	(725,283)
Net cost of operation	(14,957,007)	(14,525,582)
Current year appropriations used (Note 3)	11,658,196	12,286,944
Revenue not available for spending	(965)	(1,066)
Change in net position in the Consolidated Revenue Fund (Note 3)	114,281	485,414
Services provided without charge from other government departments (Note 8)	2,822,692	2,785,843
Equity of Canada, end of year	**(56,533)**	**306,270**

The accompanying notes form an integral part of these financial statements.

Canada Industrial Relations Board
Statement of Cash Flow (unaudited)

For the Year Ended March 31	2007	2006
(in dollars)		
Operating Activities		
Net cost of operations	14,957,007	14,525,582
Non-cash items:		
Amortization of tangible capital assets	(454,078)	(155,982)
Services received without charge	(2,822,692)	(2,785,843)
Variations in Statement of Financial Position		
Decrease (increase) in liabilities	(118,356)	832,712
Increase (decrease) in accounts receivable and advances	124,931	(213,426)
Cash used by operating activities	11,686,812	12,203,043
Capital Investment Activities		
Acquisitions of tangible capital assets (Note 3)	84,700	568,249
Cash used by capital investment activities	84,700	568,249
Financing Activities		
Net cash provided by Government of Canada	(11,771,512)	(12,771,292)
Cash provided by financing activities	(11,771,512)	(12,771,292)
Net Cash Used	**0**	**0**
Cash, beginning of year	**0**	**0**
Cash, end of year	**0**	**0**

The accompanying notes form an integral part of these financial statements.

Canada Industrial Relations Board
Notes to the Financial Statements (unaudited)

1. Authority and Objectives

The Canada Industrial Relations Board (CIRB) is an independent, representational, quasi-judicial tribunal responsible for the interpretation and application of the *Canada Labour Code*, Part I, Industrial Relations, and certain provisions of Part II, Occupational Health and Safety. It was established in January 1999 through amendments to Part I of the *Canada Labour Code*. The objective of the Board is to contribute to and to promote effective industrial relations in any work, undertaking or business that falls within the authority of the Parliament of Canada.

2. Significant Accounting Policies

The financial statements have been prepared in accordance with Treasury Board accounting policies, which are consistent with Canadian generally accepted accounting principles for the public sector.

Significant accounting policies are as follows:

(a) Parliamentary appropriations
The Board is financed by the Government of Canada through Parliamentary appropriations. Appropriations provided to the Board do not parallel financial reporting according to generally accepted accounting principles since appropriations are primarily based on cash flow requirements. Consequently, items recognized in the statement of operations and the statement of financial position are not necessarily the same as those provided through appropriations from Parliament. Note 3 provides a high-level reconciliation between the bases of reporting.

(b) Net cash provided by Government
The Board operates within the Consolidated Revenue Fund (CRF), which is administered by the Receiver General for Canada. All cash received by the Board is deposited to the CRF and all cash disbursements made by the Board are paid from the CRF. The net cash provided by Government is the difference between all cash receipts and all cash disbursements including transactions between departments of the federal government.

(c) Change in net position in the Consolidated Revenue Fund
The change in net position in the Consolidated Revenue Fund is the difference between the net cash provided by Government and appropriations used in a year, excluding the amount of non respendable revenue recorded by the Board. It results from timing differences between when a transaction affects appropriations and when it is processed through the CRF.

(d) Expenses
Expenses are recorded on the accrual basis:

- Vacation pay and compensatory leave are expensed as the benefits accrue to employees under their respective terms of employment.
- Services provided without charge by other government departments for accommodation, the employer's contribution to the health and dental insurance plans and legal services are recorded as operating expenses at their estimated cost.

(e) Employee future benefits

- Pension benefits: Eligible employees participate in the Public Service Pension Plan, a multi-employer plan administered by the Government of Canada. The Board's contributions to the Plan are charged to expenses in the year incurred and represent the total obligation to the Plan for the Board. Current legislation does not require the Board to make contributions for any actuarial deficiencies of the Plan.
- Severance benefits: Employees are entitled to severance benefits under labour contracts or conditions of employment. These benefits are accrued as employees render the services necessary to earn them. The obligation relating to the benefits earned by employees is calculated using information derived from the results of the actuarially determined liability for employee severance benefits for the Government as a whole.

(f) Accounts receivable
Most receivables recorded by the Board are from other government departments. Recovery is considered certain and a provision has not been made.

(g) Tangible capital assets
All tangible capital assets and leasehold improvements having an initial cost of $7,000 or more are recorded at their acquisition cost.

Amortization of tangible capital assets is done on a straight-line basis over the estimated useful life of the asset as follows:

Asset Class	Amortization Period
Informatics hardware	3 years
Informatics software	3–10 years
Furniture and equipment	10 years
Machinery and equipment	5 years
Leasehold improvements	Lesser of the remaining term of the lease or useful life of the improvement
Leased tangible capital assets (machinery and equipment)	5 years

(h) Measurement uncertainty
The preparation of these financial statements in accordance with Treasury Board accounting policies, which are consistent with Canadian generally accepted accounting principles for the public sector, requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses reported in the financial statements. At the time of preparation of these statements, management believes the estimates and assumptions to be reasonable. The most significant items where estimates are used are the liability for employee severance benefits and the useful life of tangible capital assets. Actual results could significantly differ from those estimated. Management's estimates are reviewed periodically and, as adjustments become necessary, they are recorded in the financial statements in the year they become known.

3. Parliamentary Appropriations

(a) Reconciliation of net cost of operations to current year appropriations used

	2007	2006
(in dollars)		
Net Cost of Operations	14,957,007	14,525,582
Adjustments for items affecting net cost of operations but not affecting appropriations:		
Add (Less):		
Services provided without charge	(2,822,692)	(2,785,843)
Refund/reversal of previous year's expenses	86,399	167,092
Amortization of tangible capital assets	(454,078)	(155,982)
Employee severance benefits	(169,086)	(25,049)
Adjustments to capital assets	0	(17,957)
Vacation pay	(15,365)	7,164
Revenue not available for spending	965	1,066
GST refundable	0	(15)
Other	(11,690)	0
	(3,385,547)	(2,809,524)
Adjustments for items not affecting net cost of operations but affecting appropriations:		
Add (Less):		
Acquisitions of tangible capital assets	84,700	568,249
Reduction of capital lease obligation	2,036	2,637
	86,736	570,886
Current Year Appropriations Used	**11,658,196**	**12,286,944**

(b) Appropriations provided and used

	Appropriations provided	
	2007	2006
(in dollars)		
Operating expenditures–Vote 10	10,822,000	10,344,000
Supplementary–Vote - 10a	479,500	0
Governor General's special warrants	0	690,000
Transfer from TB–Vote 15	97,000	0
	11,398,500	11,034,000
Less:		
Lapsed appropriations	(1,006,686)	(132,790)
	10,391,814	10,901,210
Add:		
Contributions to employee benefits plan	1,266,382	1,385,734
Current Year Appropriations Used	**11,658,196**	**12,286,944**

(c) Reconciliation of net cash provided by Government to current year appropriations used

	2007	2006
(in dollars)		
Net cash provided by Government	11,771,512	12,771,292
Revenue not available for spending	965	1,066
Change in net position in the Consolidated Revenue Fund		
Refund/reversal of previous year's expenses	86,399	167,092
Variation in accounts receivable	(126,931)	213,411
Variation in accounts payable and accrued liabilities	(64,059)	(847,959)
Other adjustments	(9,690)	(17,958)
	(114,281)	(485,414)
Current Year Appropriations Used	**11,658,196**	**12,286,944**

4. Accounts receivable

	2007	2006
(in dollars)		
Receivables from other Federal government departments and agencies	357,677	208,799
Receivables from external parties	17,248	39,195
Total	**374,925**	**247,994**

5. Tangible Capital Assets

Cost	Opening Balance	Acquisitions	Transfers	Closing Balance
(in dollars)				
Leasehold improvements	263,333		0	263,333
Informatics hardware	492,561		0	492,561
Informatics software	2,781,491		0	2,781,491
Furniture and equipment	163,284	76,850	0	240,134
Machinery and equipment	27,885	7,850	0	35,735
	3,728,554	84,700	0	3,813,254
Accumulated Amortization	**Opening Balance**	**Acquisitions Expense 2006–07**	**Transfers**	**Closing Balance**
(in dollars)				
Leasehold improvements	37,772	119,777	0	157,549
Informatics hardware	432,543	32,265	0	464,808
Informatics software	174,052	278,125	0	452,177
Furniture and equipment	46,292	18,727	0	65,019
Machinery and equipment	13,690	5,184	0	18,874
	704,349	454,078	0	1,158,427
Net Book Value	**3,024,205**			**2,654,827**

6. Lease Obligation for Tangible Capital Assets

The Board has entered into agreements to rent machinery under capital lease with a cost of $12,772 and accumulated amortization of $12,772 as at March 31, 2007 ($12,772 and $10,643 respectively as at March 31, 2006). The obligation for the upcoming years include the following:

	2007	2006
(in dollars)		
Future lease payments	0	2,070
Less: imputed interest	0	34
Balance of obligation under leased tangible capital assets	0	2,036

7. Employee Benefits

(a) Pension benefits

The Board's employees participate in the Public Service Pension Plan, which is sponsored and administered by the Government of Canada. Pension benefits accrue up to a maximum period of 35 years at a rate of 2% per year of pensionable service, times the average of the best five consecutive years of earnings. The benefits are integrated with Canada/Québec Pension Plans benefits and they are indexed to inflation.

Both the employees and the Board contribute to the cost of the Plan. The 2007 expense amounts to $933,324 ($1,025,444 in 2006), which represents approximately 2.2 times (2.6 in 2005–06) the contributions by employees.

The Board's responsibility with regard to the Plan is limited to its contributions. Actuarial surpluses or deficiencies are recognized in the financial statements of the Government of Canada, as the Plan's sponsor.

(b) Severance benefits

The Board provides severance benefits to its employees based on eligibility, years of service and final salary. These severance benefits are not pre-funded. Benefits will be paid from future appropriations. Information about the severance benefits, measured as at March 31, is as follows:

	2007	2006
(in dollars)		
Accrued benefit obligation, beginning of year	1,484,295	1,459,246
Expense for the year	284,834	60,887
Benefits paid during the year	(115,748)	(35,838)
Accrued benefit obligation, end of year	1,653,381	1,484,295

8. Related Party Transactions

The Board is related as a result of common ownership to all Government of Canada departments, agencies, and Crown corporations. The Board enters into transactions with these entities in the normal course of business and on normal trade terms. Also, during the year, the Board received services that were obtained without charge from other Government departments as presented in part (a).

(a) Services provided without charge

During the year, the Board received without charge from other departments, accommodation and the employer's contribution to the health and dental insurance plans. These services without charge have been recognized in the Board's Statement of Operations as follows:

	2007	2006
(in dollars)		
Accommodation	2,205,694	2,167,453
Employer's contribution to the health and dental insurance plans	616,692	618,390
Total	2,822,386	2,785,843

The Government has structured some of its administrative activities for efficiency and cost-effectiveness purposes so that one department performs these on behalf of all without charge. The costs of these services, which include payroll and cheque issuance services provided by Public Works and Government Services Canada, are not included as an expense in the Board's Statement of Operations.

(b) Payables and receivables outstanding at year-end with related parties

	2007	2006
(in dollars)		
Accounts receivable with other government departments and agencies	322,437	185,672
Accounts payable to other government departments and agencies	70,493	37,951

Table 6–Response to Parliamentary Committees, and Audits and Evaluations for Fiscal Year 2006–07

Response to Parliamentary Committees
No recommendations were received.

Response to the Auditor General including to the Commissioner of the Environment and Sustainable Development (CESD)
To follow up.

External Audits (Note: These refer to other external audits conducted by the Public Service Commission of Canada or the Office of the Commissioner of Official Languages.)
No external audits or evaluations were conducted.

Internal Audits or Evaluations
No internal audits or evaluation were conducted.

Table 7–Travel Policies

The CIRB's Travel Policy complies with the Treasury Board Travel Directive with respect to its application to all Board staff and GIC appointees. In the case of GIC appointees, the CIRB generally adheres to the Special Travel Authorities applicable to GICs, as set out in the Treasury Board Travel Directive, with certain restrictions with respect to meal allowances and accommodation and the directives on business class air travel.

SECTION IV–ILLUSTRATIVE BOARD DECISIONS AND JUDICIAL REVIEWS

4.1 Illustrative Board Decisions

***TD Canada Trust in the City of Greater Sudbury*, Ontario (2006), as yet unreported CIRB decision no. 363** (certification by cluster in the banking industry)

This matter was a reconsideration of a Board decision which granted an application for certification of a single bargaining unit that covered a cluster of bank branches in the Greater Sudbury area, contrary to TD's position that a cluster of branches was inappropriate and contrary to what it believed was the Board's general branch-by-branch approach in the banking industry. The original decision was also challenged as being against the express wishes of all of the employees of one particular branch, the Lively Branch.

The reconsideration panel confirmed that there is no established practice or policy that favours branch-by-branch units over clusters, in the banking industry. Further, it confirmed that the union required only a majority of employee support in the overall unit found to be appropriate and not in each individual branch. The contrary wishes of the Lively employees did not affect the majority support demonstrated in the overall unit, thus a representation vote was not required. Nor did the inclusion in the unit of employees who did not support the union violate their rights of "non-association" under the *Canadian Charter of Rights and Freedom*.

Finally, the panel confirmed the Board's policy that the level or the extent of the Board officer's investigation into allegations of intimidation and coercion is discretionary and may vary depending upon a variety of factors. It rests with the panel seized to determine whether further investigation is required or if it is satisfied that the membership evidence is reliable. Only where the Board is satisfied that the improprieties affect the validity or reliability of the membership evidence submitted, will the Board consider an alternative method of verifying employee wishes and the level of support for the applicant union. A representation vote was not warranted on this basis either. All aspects of the reconsideration application were dismissed.

An application for judicial review before the Federal Court of Appeal was heard on September 11, 2007, with its judgment reserved.

***Canadian National Railway Company*, [2006] CIRB no. 362** (enforcement of settlements)

This matter involved an application filed by the union to have the Board declare that a settlement agreement, concerning various outstanding matters before the Board, had been concluded between the parties and order the employer, CN, to comply with its terms.

The Board first found that it does have the jurisdiction and power, under sections 15.1, 16(p), 21, 98 and 99 of the *Code*, to determine whether the issues in matters pending before the Board have been settled and to make any necessary orders. The Board concluded that in support of the statutory objective of the constructive settlement of disputes, it is necessary to protect the integrity of the informal settlement process. The Board's general powers must be interpreted in a

manner that provides it with the requisite authority to inquire into whether a settlement has been reached and if so, to enforce its terms, in order to prevent parties from reneging on commitments made during the informal dispute resolution process. To find that the Board lacks this power would seriously undermine the Board's authority and its process in fulfilling its statutory mandate.

The Board then found that a settlement had been concluded between the parties. The terms of the oral agreement reached between the negotiating parties were found to be sufficiently clear, unconditional and covering all the essential issues, so as to constitute a binding and enforceable settlement agreement.

***Air Canada*, [2006] CIRB no. 360** (Board's jurisdiction to rule on mediator's recommendations)

In this reconsideration decision, the Board upheld the original panel's decision that it had no jurisdiction, under section 16(p) of the *Code*, to rule on whether or not the mediator Teplitsky recommendations (to modify the pilots' seniority list established by arbitrator Keller following the merger with Canadian Airlines), if implemented, would violate the *Code*.

The panel saw no error in the Board's approach to the meaning of section 16(p). What the Air Canada Pilots Association really sought was a form of pre-clearance or advanced ruling under section 16(p) on the propriety of its actions in order to avoid subsequent duty of fair representation (DFR) complaints. However, such issues can and should be dealt with under section 37, if and when any such action is taken.

Before concluding, the panel confirmed the limited status of the Air Line Pilots Association to continue to represent the minority pilots' interests respecting any negotiated changes to the seniority list. If and when the Board is called upon in the future to judge any proposed changes to the list, it will have to assess the need for and cause of the changes. It offered that mere efforts to impose the majority will on the minority will likely not serve as sufficient reason to change the seniority provisions, while other proposals may be seen as legitimate changes for valid operational reasons.

Application for judicial review was dismissed by the Federal Court of Appeal on June 19, 2007.

***Securiguard Services Limited*, [2006] CIRB no. 359; and 132 CLRBR (2d) 299** (review of ministerial action)

In this matter, the employer complained that the notice of dispute filed by the union pursuant to section 71 of the *Code* was invalid and asked the Board to set aside the subsequent appointment of a conciliation officer by the Minister of Labour. The application was brought under section 16(p) of the *Code*. The Board found that it had no jurisdiction to hear the application.

First, the Board determined that the application was not properly before the Board because section 16(p) does not, in itself, authorize the filing of an application. The purpose of the section is to allow the Board to resolve questions that arise during the course of a proceeding already

before it. It does not grant parties an independent right of access to the Board's decision-making process.

Second, the Board determined that it had no jurisdiction to set aside the Minister of Labour's appointment of the conciliation officer or to declare the notice of dispute void. It rejected the argument that the privative clause that prevents a court from reviewing a ministerial appointment of a conciliation officer (section 86) implicitly confers jurisdiction on the Board to do so. It found no provision in Part I of the *Code* that authorizes the Board to review the exercise of any of the ministerial functions.

***Crawford Transport Inc.* (2006), as yet unreported CIRB decision no. 370** (bad faith bargaining and unfair labour practice)

This matter involved a bad faith bargaining and unfair labour practice complaint filed against Crawford, a trucking company. The parties reached an impasse in collective bargaining over a work allocation clause. The existing clause provided that errors in work allocation were non-grievable. An arbitrator ruled that the issue was grievable under the collective agreement and struck down the clause. In the ensuing negotiations, the employer took to impasse a proposal that allowed work allocation grievances but barred any monetary remedy. The union rejected the final offer and voted in favour of a strike. The employer then withdrew the final offer.

The employer's business came from two main customers, both of whom decided to end their relationship with Crawford, due to the looming prospect of a strike and the almost certain disruption of service to their own businesses. As a result, Crawford's business diminished significantly, it laid off all of its employees and transformed its transportation business into an equipment-leasing business, leasing to its competitor who now services its former customers.

The Board found that in these circumstances and with the history associated with the particular clause in question, the employer's absolute insistence on this clause, with no room for movement, and its refusal to return to the bargaining table, constituted bad faith bargaining.

The Board also upheld the unfair labour practice complaint. It held that Crawford's conduct in bargaining contributed to the decision of its customers to withdraw its business, which in turn caused the lay-offs and the closure of that business. While a company has the right to genuinely go out of business, its decision to do so does not remove its obligations under the *Code*.

With respect to remedy, the Board rejected the union's request to order Crawford to reopen the transportation business as it would "exceed the practical limits of the Board's remedial powers." Instead, it ordered lost wages and benefits to the laid-off employees and damages for lost negotiating costs to the union.

4.2 Judicial Reviews

***Transport Besner Atlantic Ltée* v. *Syndicat des travailleuses & travailleurs de Transport Besner (CSN)*, 2006 FCA 146** (nos. A-475-04, A-11-05, A-107-05, A-392-05)

The Federal Court of Appeal dismissed the four applications for judicial review in this matter.

The three Board decisions with respect to a declaration of sale of business and a single employer declaration were upheld by the Court: *Transport Besner Inc. et al.*, [2004] CIRB no. 285; and 119 CLRBR (2d) 1; *Transport Besner Inc. et al.*, [2004] CIRB no. 303; and 125 CLRBR (2d) 69; and *Transport Besner Inc. et al.*, [2005] CIRB no. 329; and 135 CLRBR (2d) 306. The Court concluded that the Board's decision to issue a sale of business declaration and a single employer declaration was not patently unreasonable.

The Court explained the scope of section 44 of the *Code*. It made some important distinctions between the *Canada Labour Code* and the Quebec *Labour Code*'s provisions on sale of business and analyzed the relevant case law from the Supreme Court of Canada. The Court stated that a legal relationship is not necessary in order to determine whether a sale of business has taken place.

The Court also concluded that the Board's decision to allow 98 truckers laid off by Transport Besner to participate in the representation vote following the sale of business and single employer declarations was not patently unreasonable.

***J.D. Irving Ltd.* v. *I.L.A, Local 273*, 2006 FCA** 193 (no. A-399-05)

The Board, in an earlier ruling (*Irving Shipbuilding Inc. et al.*, [2002] CIRB no. 153; and 91 CLRBR (2d) 71), found that since J.D. Irving had extended its operations in the Port of Saint John, New Brunswick, to conduct longshoring work, such operations were covered by an existing geographic certification order.

When the Board proceeded to deal with unresolved issues following this earlier ruling, the employer once again challenged the Board's jurisdiction and argued that the particular operations which included the longshoring work fell under provincial, not federal, jurisdiction. It claimed that the standard of patent unreasonableness only applied to the Board's interpretation of its own statute, such as section 34 of the *Code*. It asserted that the test of correctness must be applied where there is a constitutional issue, such as a division of powers question or *Charter* ground.

The application for judicial review was dismissed. The Court reaffirmed that the question of whether work is or is not longshoring is within the Board's expertise and that the standard of review in that regard is patent unreasonableness. The Court concluded that the employer could not now challenge the Board's earlier finding that J.D Irving is engaged in longshoring at the Port of Saint John by means of a collateral attack on the Board's reaffirmation of that finding. Having made and reaffirmed those findings, the Court found that the Board was entitled to conclude that such activity came within the legislative power of Parliament under the heading of navigation and shipping and was therefore a federal work.

Note: *The above two significant Federal Court of Appeal cases have been summarized in this Report, even though they were referred to in last year's Report, since they are illustrative of judicial reviews heard by the Federal Court of Appeal in fiscal year 2006–07.*